

**REPORT - PLANNING COMMISSION MEETING
November 20, 2003**

Project Name and Number: Tri-City Sports and Patio World General Plan Amendment and Rezoning (PLN2004-00092)

Applicant: City of Fremont

Proposal: To consider a City-initiated General Plan Amendment and Rezoning application to add a Residential High density designation of 23-27 dwelling units per acre to the existing Community Commercial land use designation at 40800 Grimmer Boulevard and to add a Residential Medium density designation of 18-23 dwelling units per acre to the existing Community Commercial land use designation at 40900 Grimmer Boulevard and rezone both sites from Community Commercial (Irvington Overlay) (C-C(I)) to P-2004-92(I) Planned District which would continue to allow all existing Community Commercial Irvington Overlay (C-C(I)) zoning provisions as well as mixed use and/or residential development of 23 to 27 units per acre and 18-23 units per acre, respectively. The site is approximately 16.6 acres located on the corner of Grimmer Boulevard and Irvington Avenue in the Irvington Planning Area.

Recommended Action: Recommend to City Council

Location: Tri-City Sporting Goods (40900 Grimmer Boulevard) and Patio World (40800 Grimmer Boulevard)

Assessor Parcel Number(s): 525-1054-1-4; 525-1054-6; and 525-1054-7

Area: 16.6 acres

Owners: Joseph L. Harrosh, Sherry Harrosh, and Samuel N. Harrosh Limited Partnership

Agent of Applicant: None

Consultant(s): None

Environmental Review: An Initial Study and Draft Mitigated Negative Declaration have been prepared and circulated for this project.

Existing General Plan: Community Commercial Irvington Overlay

Existing Zoning: Community Commercial Irvington Overlay (C-C(I))

Existing Land Use: Tri-City Sports, Patio World, Restaurant (Commercial uses)

Public Hearing Notice: Public hearing notification is applicable. A total of 101 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on November 7, 2003. A Public Hearing Notice was delivered to The Argus on November 3, 2003 to be published by November 6, 2003.

Executive Summary: The property owners of Tri-City Sports and Patio World approached the City of Fremont Office of Housing and Redevelopment staff regarding a housing opportunity at the Patio World site. As part of implementation of Programs 18-23 of the Housing Element certified in July of 2003, staff determined that redesignating the properties for residential or mixed-use would implement those goals, specifically, Program 21 (Commercial and Industrial Redesignation), Program 22 (Redesignation and Rezoning of Older Shopping Center Sites) and Program 23 (Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments). While no plans have been formally submitted,

the proposed General Plan redesignations and rezoning would be consistent with the general concept contemplated by the property owners of the Patio World site and third parties which have expressed an interest in developing the site for residential uses. There are no current plans to redevelop the Tri-City Sports site. The redesignation of the Tri-City Sports site would provide the opportunity for residential or mixed-use development of the site in the future if the property owners so desire.

Staff is requesting that the Planning Commission recommend approval of the proposed Mitigated Negative Declaration and the redesignations and rezoning to the City Council.

Background: The City is charged by State statute with responsibility for updating its Housing Element. A Housing Element is a planning document (part of the General Plan) that guides the City's housing efforts. The Housing Element not only provides general goals, objectives and policies but also proposes implementation programs to meet the stated goals and objectives. The Housing Element must also address the City's allocation of housing needs prepared by the Association of Bay Area Governments. The Association of Bay Area Governments (ABAG) has determined the 1999-2006 Regional Housing Needs Distribution Allocation for all Bay Area cities and counties, including Fremont. The total housing need for Fremont is 6,708 units (revised to 4,912 as set forth in the Housing Element). This allocation is based upon ABAG's projections of the City's share of regional job growth and regional household growth during the 1999-2006 period.

Existing law requires the State Department of Housing and Community Development (HCD) to evaluate the programs in the housing element for consistency with State law. Those programs include the identification of sites to be made available to encourage the development of a variety of types of housing for all income levels.

On February 12, 2002, the City Council adopted a new Housing Element to replace the previously adopted (May 1991) Element. The City received comments from the State Department of Housing and Community Development (HCD) on June 3, 2002, stating that revisions were necessary prior to State certification. Since June of 2002, staff worked to revise the Housing Element to respond to HCD comments. Council adopted the revised Housing Element on May 13, 2003. On July 17, 2003, HCD informed the City of Fremont that the Housing Element adopted by the City Council on May 13, 2003 was found in compliance with State housing element law. HCD reiterated the need to meet the established timeframes to implement the programs. The City submitted an annual report to HCD on the progress in implementing identified Housing Element programs on October 1, 2003.

Project Description: Staff is in the process of implementing the Housing Element. The property owners of Tri-City and Patio World approached the City of Fremont Office of Housing and Redevelopment staff regarding potential residential development at the Patio World site. As part of staff's implementation of Programs 18-23 of the Housing Element certified in July of 2003, staff determined that redesignating the properties would implement those goals, specifically, Program 21 (Commercial and Industrial Redesignation), Program 22 (Redesignation and Rezoning of Older Shopping Center Sites) and Program 23 (Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments). Program 21, Commercial and Industrial Redesignation, identifies a portion of the Tri-City site as a housing development opportunity site as part of this program. Program 23, Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments, identifies the Patio World site as a mixed-use development opportunity site. The Housing Element does not identify the Tri-City Sports site as an opportunity site. City of Fremont staff and the property owners agreed to include to redesignate the Tri-City Sports site at this time for potential future residential development. This could be considered consistent with any of the aforementioned Programs 21, 22 or 23.

While no plans have been formally submitted, the proposed General Plan redesignations and rezoning would be consistent with the general concept contemplated by the property owners of the Patio World site and third parties which have expressed an interest in developing the site for residential uses. There are no current plans to redevelop the Tri-City Sports site. The redesignation of the Tri-City Sports site would provide the opportunity for residential development of the site in the future if the property owners so desire.

The specific proposals consist of a General Plan Amendment and Rezoning to add a Residential High density 23-27 dwelling units per acre to the existing land use designation of Community Commercial at 40800 Grimmer Boulevard and to add a Residential Medium density designation of 18-23 dwelling units per acre to the existing Community Commercial

land use designation at 40900 Grimmer Boulevard and rezone both sites from Community Commercial (Irvington Overlay) (C-C(I)) to P-2004-92(I) Planned District. The P-2004-92(I) Planned District would allow all existing Community Commercial Irvington Overlay (C-C(I)) zoning provisions as well as mixed use and/or residential development of 23 to 27 units per acre and 18-23 units per acre, respectively.

No changes to existing land uses on any of the sites is being proposed at this time. The property owner may come forward with an application in the future. The proposed redesignations and rezoning provide increased opportunities for future development of new housing within the community to meet City of Fremont Housing Element objectives.

Surrounding land uses include medium density residential dwellings to the east and south on Bay Street, low density residential dwellings to the west on Irvington Avenue, commercial development to the northwest on Grimmer Boulevard, and a cemetery to the south on Chapel Way and Irvington Avenue.

Analysis: The proposed redesignation and rezoning are not intended to make commercial sites non-conforming after the redesignation and rezoning are completed. Rather, such redesignation and rezoning are intended to be “additive,” so that new zoning of the parcels increases development opportunities for each site by allowing new residential units. Sites could retain their existing commercial designation, but could also allow mixed-use villages, where commercial uses would coexist with residential developments. Conversely, it is also possible that the property owners could redevelop these sites solely for higher density residential use.

The current general plan land use designation for the two sites is Community Commercial. Therefore, a general plan amendment is required in order to provide for uses other than solely commercial on a site. The proposed general plan amendments will result in the sites having a commercial and residential designation, as identified in Exhibits “A.”

General Plan Conformance: The proposed General Plan Amendment will designate the two sites to include commercial and residential designations. The following General Plan Goals, Objectives and Policies are applicable to the proposed designations:

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|-----------------------|---|
| Fundamental Goal F8: | <i>A Diversity of residential, recreational, cultural, employment and shopping opportunities.</i> |
| Land Use Policy 1.20: | <i>Mixed use (residential/commercial) is allowed in Commercial Districts as specified by the zoning regulations for the respective district in order to increase the vitality and activity within commercial districts.</i> |
| Implementation 1: | <i>Develop design and development standards, including residential intensity standards, for mixed –use projects within commercial districts.</i> |
| Land Use Policy 1.9: | <i>To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to collector or arterial street, and a transition use where maximum flexibility in site design is required. For those areas where higher densities are indicated on the General Plan Diagram, construction of housing at significantly lower densities than planned would not meet the City’s goals. The City therefore established a minimum required density of development for all medium and high density residential uses as follows:</i> <ul style="list-style-type: none">• <i>When the residential range is between 6.5 and 70 units per acre (ranges 8 – 15), and a development application has not been deemed completed for processing under the provisions of the Permit Streamlining Act by July 1, 2003, the minimum density of the project must be at the midpoint of the density range.</i>• <i>When calculation of the midpoint density results in a fraction of a unit equating to 0.50 or more, the minimum density shall be rounded up to the next whole number.</i> |

Reduction in the midpoint density may be approved when environmental constraints or historic preservation goals preclude achievement of the midpoint density. If the property proposed for development contains a Primary Historic Resource, or is listed on the State or National Register of Historic Places, or is determined by the City Council through recommendation from HARB to possess historic significance then minimum density may be waived.

Housing Program Strategy
Implementation 21:

Commercial and Industrial Redesignation: The City will actively solicit property owners and developers interested in redesignation of commercial and/or industrial lands on the easterly side of Interstate 880 for residential use. From the identified candidate sites, the City Council will determine the suitability of sites for conversion in accordance with other General Plan goals, objectives and policies in order to meet the objectives. Properties to be converted will be rezoned to the R-3 (Multiple-family residential) or P (Planned) districts at densities ranging from 5 to 50 units/acre to accommodate a total of 753 units. Based on staff's knowledge of these sites and of their ownership, these objectives can be achieved. If necessary, the City will act on reclassification and rezoning of lands on its own initiative. Where PD (Planned Development) zoning is utilized, the PD zoning established by the City Council will: 1) specify the uses allowed on the particular property, 2) establish a density range that is allowed by right, and 3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for adoption of an Ordinance adopting a Precise Plan.

Housing Program Strategy
Implementation 22:

Commercial Redesignation: Older Shopping Center/Central Business District (CBD): Older Shopping Centers and portions of the CBD, identified as the CBD Concept Plan, should be considered as opportunity sites for housing. The City has several older shopping centers that are no longer attractive or vibrant commercial areas. These sites could be redeveloped into new housing developments or as mixed-use villages. The sites are likely to redevelop in the time frame of this Housing Element, particularly given the strong demand for housing and the incentive given to owners by City sponsored rezoning to accommodate units or mixed-use development opportunities. Many of these sites are also within the City's Redevelopment areas where the City can provide assistance. In addition, the Central Business District contains several sites that could accommodate housing units. Where PD (Planned Development) zoning is utilized, the PD zoning established by the City Council will: 1) specify the uses allowed on the particular property, 2) establish a density range that is allowed by right, and 3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for adoption of an Ordinance adopting a Precise Plan. The redesignation of such sites would be in addition to those sites referenced in the Commercial Redesignation Program 21. Sites sufficient to meet program needs are identified in Appendix E.

Housing Program
Strategy
Implementation 23:

Rezone Sites to Mixed-Use to Accommodate Affordable Housing Developments: The City will rezone several parcels with commercial designations to encourage additional mixed-use residential development that incorporates affordable housing units. Where PD (Planned Development) zoning is utilized, the PD zoning established by the City Council will: 1) specify the uses allowed on the particular property, 2) establish a density range that is allowed by right, and 3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for adoption of an Ordinance adopting a Precise Plan.

The proposed general plan amendments to allow mixed-use or residential development, in addition to existing commercial uses, on the two sites are consistent with these land use policies and implementation strategies because redesignation of sites will allow increased opportunities for the production of moderate and higher density housing where appropriate, will accommodate mixed-use development with residential uses at the minimum established mid-point density ranges, and will implement key Housing Program Strategies that are intended to facilitate the production of new housing in the City of Fremont.

Zoning Regulations: The two sites are currently zoned Community Commercial Irvington Overlay District. Future development on these sites will be based upon the development standards for a Community Commercial Irvington Overlay zoning district, and the R-3 zoning district.

Planned District Analysis: The Housing Element anticipates that Planned District zoning would be applied to the Tri-City and Patio World sites and that each Planned District would (1) specify the uses allowed on the site; (2) establish a density range that is allowed by right; and (3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for approval of a Precise Plan by ordinance.

In accordance with the Housing Element, a new Planned District is proposed for the site (See Exhibit C). Each Planned District is set up to allow existing uses as provided for in the applicable existing zoning district, mixed-uses and residential uses with an established residential density range. As required by the Housing Element, residential developments must achieve, at minimum, the mid-point density within the established density range for the site. The Initial Study for the project did not identify any historic or environmental resources that would preclude any of the properties from achieving the midpoint minimum density. Therefore, new residential development will be required to develop at midpoint to the high end of the density range. Additionally, new residential construction requires review and approval through the Site Plan and Architectural Review by the Planning Commission.

Section 8-21811(i) of the Zoning Ordinance requires certain findings for City-initiated P districts. This section states that after a public hearing the City Council may establish a P district provided that the Council finds the following:

- (1) The property is designated in the General Plan as having a relatively unique feature, and because of the need for specific design to achieve the objectives of such special General Plan designation, the property can best be established as a P district; or,
- (2) The uniqueness of the size, shape, topography of the property or its relationship to adjacent parcels, historical character or landscaping features is such that the property can best be developed as a P district.

Staff believes both findings can be made for the proposed Planned District. The designation of the site within existing commercial centers to allow mixed-use and/or residential uses and their location at key intersections warrants special design treatment to achieve the objectives of a Planned District.

- **Irvington Concept Plan Analysis:** The Tri-City Sports and Patio World sites are located within the Irvington Planning Area. The City of Fremont is in the process of reviewing the Draft Irvington Concept Plan. The Concept Plan is currently being refined to address concerns from the community. The proposed Planned District (P-2004-92) requires that future development of the parcels within this district be consistent with the "Vision" established by the Concept Plan for this site.
- **Redevelopment:** The Tri-City Sports and Patio World sites are within the Irvington Redevelopment Area. The proposed project is consistent with the Redevelopment Plan because the proposed General Plan Amendment and rezoning will set a framework for future redevelopment on these parcels. This framework will take into consideration the existing conditions and uses of the area. Further, the redesignations and rezoning will provide a framework for appropriate new businesses and residential development in coordination with Citywide economic development and affordable housing programs.

Environmental Analysis: An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. A finding is proposed that this project would not have a significant effect on the environment. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission and City Council. The review period for the Initial Study and Draft Mitigated Negative Declaration began on November 4, 2003 and will conclude on December 3, 2003. The Planning Commission may make a recommendation on the Draft Mitigated Negative Declaration, based on comments made up to the time of the Planning Commission meeting. If any comments are received after the Planning Commission meeting, responses will be provided to the Council prior to their action.

The Initial Study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on any wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Response from Agencies and Organizations: No responses received.

This project was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. The agency responded with no comment on the proposed project.

Exhibits:

Exhibit "A"	General Plan Exhibit
Exhibit "B"	Zoning Exhibit
Exhibit "C"	Planned District Exhibit

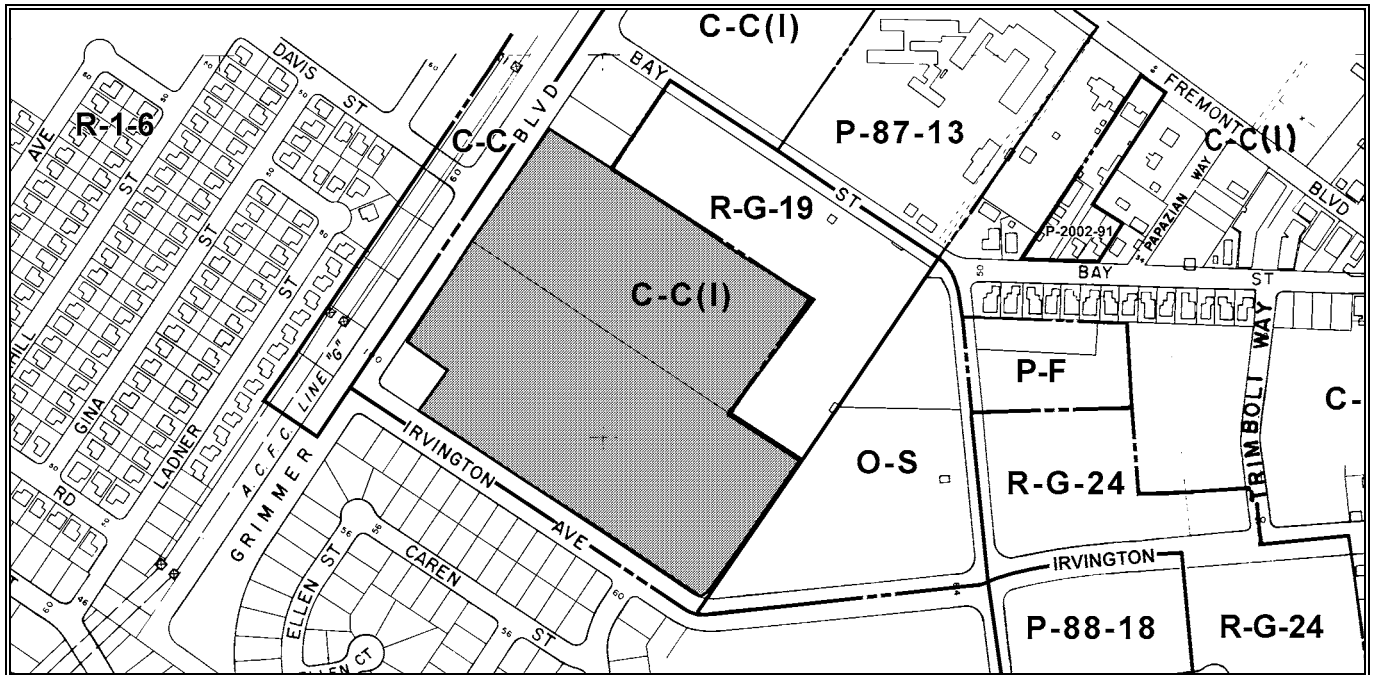
Enclosures:

Exhibit "C"	Planned District Exhibit
Initial Study and Draft Mitigated Negative Declaration	

Recommended Actions:

1. Hold public hearing.
2. Recommend that, based on the information available to date, the City Council find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Recommend that the City Council approve a Mitigated Negative Declaration and find it reflects the independent judgment of the City of Fremont.
4. Find that General Plan Amendments and Planned District Rezoning (P-2004-92) are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Element Chapters as enumerated within the staff report.
5. Find that the existing commercial sites have relatively unique features and that their designation for mixed-use and/or residential developments requires specific design considerations to achieve these objectives; and are identified in the Housing Element such that the properties can best be developed as P districts.
6. Recommend that the City Council approve PLN2004-00092 to amend the General Plan land use diagram to designate these sites with additional residential land use designations, and rezone them to Planned Districts (P-2004-92) in conformance with Exhibits "A", "B", and "C." (General Plan Amendment, Rezoning Exhibit and Planned District Exhibit).

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

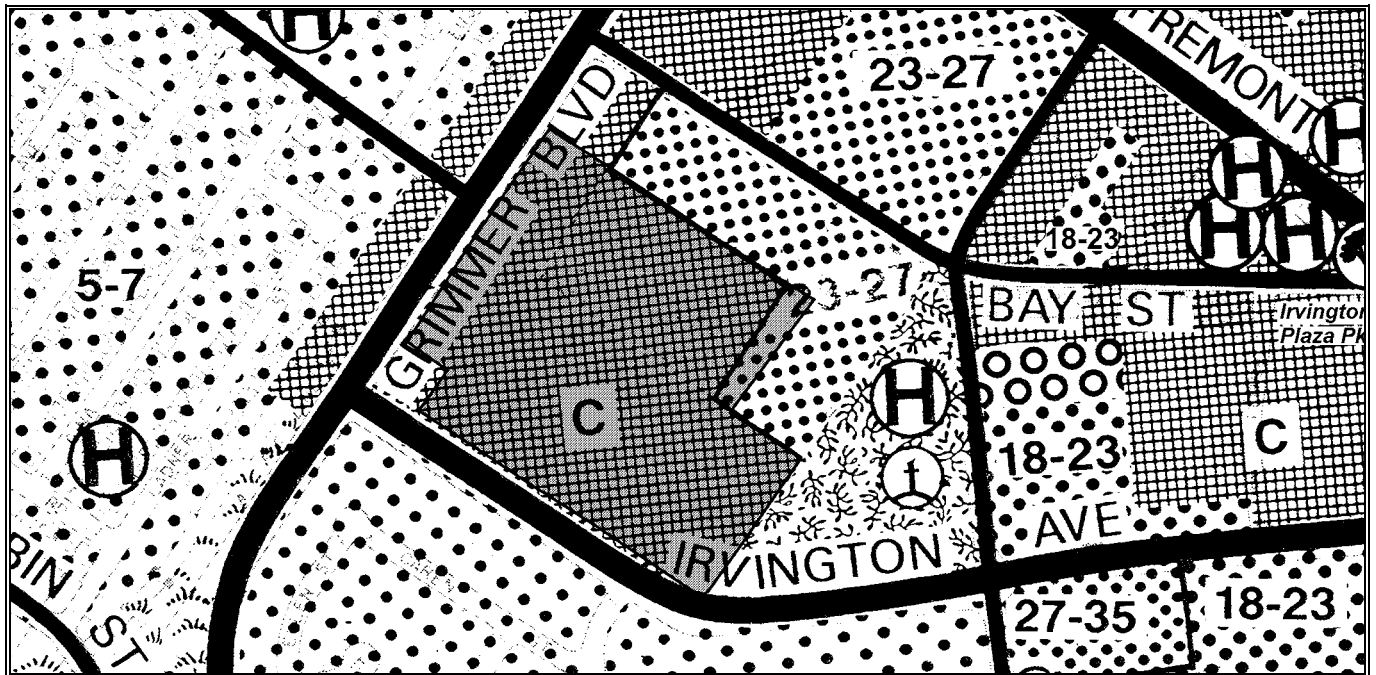


EXHIBIT "A"

Attached to and made a part of

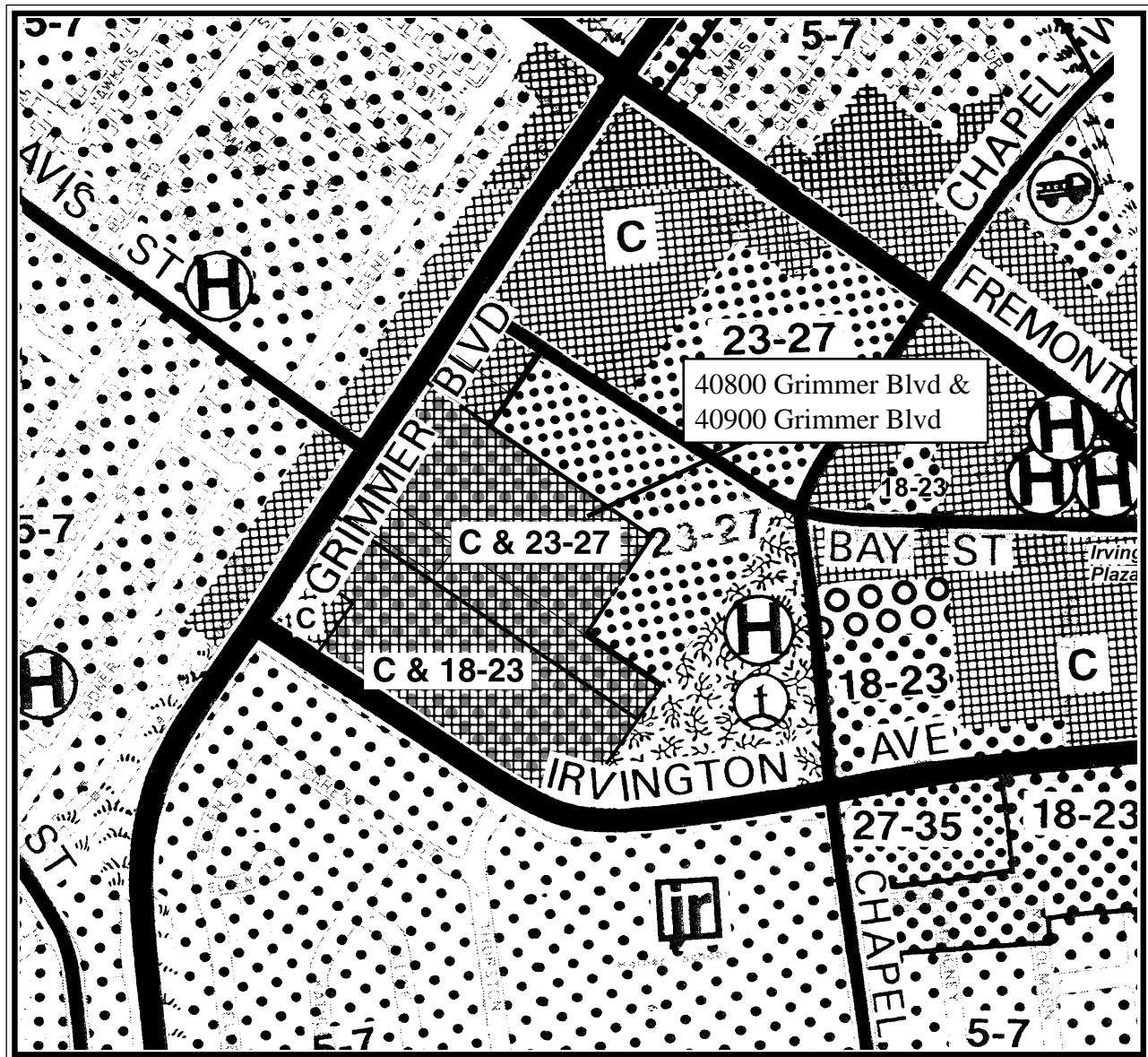
Resolution No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20 03** .

GENERAL PLAN LAND USE DIAGRAM (SECTION)

AFFECTS LAND USE DIAGRAM(S) FOR THE IRVINGTON PLANNING AREA



From: Community Commercial

To: Community Commercial & Residential, High 23-27 du/ac;

Community Commercial & Residential, Medium 18-23 du/ac

Project Name: Tri-City Sports and Patio World

Project Number: PLN2004-00092 (gpa, pd)

[pc on 11-20-03] 72-376, 72-380

